

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COMMISSIONER OF EDUCATION

IN Re: Residency of T. Doe

RIDE No. 20-034K

DECISION

Held: Based on uncontroverted evidence submitted at a residency hearing requested by the Warwick School Department, T. Doe is determined to be a school resident of the City of Providence. He is hereby disenrolled from the Warwick School Department and his mother is directed to enroll him in the Providence School Department as soon as possible, so that he will receive the free appropriate public education to which he is entitled as a student with a disability under the IDEA.

Date: August 20, 2020

Travel of the Case:

Counsel for the Warwick School Department (“Warwick”) filed a request for a residency determination under R.I. Gen. Laws §16-64-6 on June 8, 2020. The request indicated that Warwick had certain factual information that T. Doe and his parent resided in Providence and that the matter should be resolved before the start of the 2020-21 school year. When she was contacted to schedule a hearing, Doe’s parent represented that she would be withdrawing her son from Warwick at the end of the 2019-2020 school year. Steps to withdraw T. Doe from Warwick were not taken and counsel for Warwick renewed her request for a hearing and a hearing was scheduled for August 19, 2020. Despite being provided with notice of the date and time of the hearing, Doe’s parent did not attend. In attendance were counsel for Warwick and counsel for the Providence School Department. Warwick called three witnesses, one of them testifying via Zoom video conferencing by agreement of the parties. Testimony and documentary evidence were presented. The hearing adjourned and the record was closed on August 19, 2020.

Because Doe is a student with a disability and the continuity of his services is a matter of some urgency, the decision in this matter has been expedited.

Findings of Relevant Facts:¹

- Doe and his mother reside at a multi-family home in Providence, Rhode Island.
- Doe and his mother have never resided at the address Doe’s mother provided to school officials at Cedar Hill Elementary School. The home at the address in Warwick has been unoccupied since at least February of 2020.
- Doe is a student with a disability and entitled to a free appropriate public education. At the time of the hearing, his mother had not taken steps to enroll him in Providence or to transfer his records, including his current Individualized Education Program (“IEP”), so that staff of the Providence School Department could plan for services as required by his current IEP. He is entitled to a free appropriate public education in the upcoming school year.

Positions of the Parties:²

Warwick School Department:

Counsel for Warwick argued that the district had presented ample evidence that Doe and his mother currently reside in Providence and that the family has never resided at the address provided to staff at the school he last attended, Cedar Hill Elementary School, where he was in the third grade. State law on school residency, R.I. Gen. Laws §16-64-1, requires that a child be enrolled in the school system of the city or town where he or she resides and further provides that a child shall be deemed to be a resident of the city or town where his or her parents reside. The preponderance of the evidence in this case, in fact uncontroverted evidence,

¹ All findings are based on the notes of the hearing officer taken from testimony presented at the time of the hearing and/or documents presented into evidence.

² As previously indicated Doe’s parent received notice of the time and date of the hearing, but did not respond in any way and was not in attendance at the hearing.

demonstrates that both Doe and his mother are residents of the city of Providence. Doe should be enrolled there without delay so that preparations can be made to provide him with the special education and related services to which he is entitled.

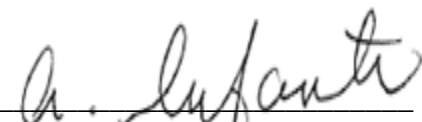
Providence School Department:

Counsel for the Providence School Department took no position on the school residency of Doe, but indicated that if the Commissioner determined that he was a school resident of Providence at this time, the district was ready, willing and able to provide him with a free appropriate public education. Although the exact date of the opening of the 2020-21 school year in Providence has not been determined with certainty, district staff would be best served by knowing in advance of the start of the school year that Providence was Doe's local education agency (LEA) so that Doe's special education needs will be met.

DECISION

The evidence presented demonstrated that early reports of issues with respect to Doe's school residency in Warwick were not unfounded. A methodical inquiry and investigation conducted by Warwick's school attendance officer into this issue produced evidence of an unoccupied Warwick residence³ and evidence of an apartment in Providence leased by Doe's mother for a one-year term, commencing February 1, 2020. The absence of Doe's mother at the time of the hearing "spoke volumes" and rendered this evidence uncontroverted. As indicated in our findings of fact, Doe and his mother reside in Providence and he is clearly entitled to be enrolled forthwith in Providence schools. Counsel for the Providence School Department has indicated that should this be the finding of the Commissioner, then Providence is ready, willing and able to provide this student with a free appropriate public education.

Doe is a child of compulsory school age and, as a child with a disability, his receipt of special education and related services is needed to fulfill entitlements under federal and state law. His mother's failure to enroll him is of immediate concern. Should he not be enrolled in the Providence school system, or evidence be provided to Providence officials of his enrollment in a program that complies with compulsory education requirements, referral of the decision in this matter will be made to appropriate state and local officials.



Angélica Infante-Green,
Commissioner

/s/ Kathleen S. Murray
Kathleen S. Murray
Hearing Officer

Date: August 20, 2020

³ The testimony was in fact that Doe and his mother had never resided at the address provided to staff at Cedar Hill Elementary School in Warwick.